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July 5, 2011

**ADOPTED**

BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

#19 OF JULY 5, 2011

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Agenda No. 7  
01/25/11

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

*Sachi A. Hamai*  
SACHI A. HAMAI  
EXECUTIVE OFFICER

**Re: PROJECT NUMBER R2008-01555-(5)  
CONDITIONAL USE PERMIT NUMBER 2008-00131-(5)  
FIFTH SUPERVISORIAL DISTRICT/THREE-VOTE MATTER**

Dear Supervisors:

Your Board previously conducted a hearing regarding the above-referenced permit which sought to authorize the operation of an adult residential facility for drug and alcohol rehabilitation for a maximum of 20 adults, located at 3323 Fairpoint Street within the Kinneola Mesa community in the Northeast Pasadena Zoned District. At the completion of the hearing you indicated an intent to deny the permit and instructed us to prepare findings for denial. Enclosed are findings for your consideration.

Very truly yours,

ANDREA SHERIDAN ORDIN  
County Counsel

By

*Elaine M. Lemke*

ELAINE M. LEMKE  
Principal Deputy County Counsel  
Property Division

APPROVED AND RELEASED:

*John F. Krattli*  
JOHN F. KRATTLI  
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EML:vn  
Enclosure

HOA.792875.1

**FINDINGS OF THE BOARD OF SUPERVISORS  
AND ORDER  
PROJECT NUMBER R2008-01555-(5)  
CONDITIONAL USE PERMIT NUMBER 2008-00131-(5)**

1. The Los Angeles County ("County") Board of Supervisors ("Board") conducted a duly-noticed public hearing in the matter of Conditional Use Permit Case No. 2008-00131-(5) ("CUP") on January 25, 2011. The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the CUP on July 7, 2010 and July 21, 2010.
2. The applicant, Eaton Canyon Treatment Center ("applicant"), requests a CUP to authorize the operation of the Eaton Canyon Treatment Center ("facility") as an adult residential facility for drug and alcohol rehabilitation on an R-1-20,000 (Single-Family Residence - 20,000 square feet minimum lot size) zoned parcel. The facility would house a maximum of 20 client residents. The applicant stated that the largest number of employees on any one shift would be seven or eight.
3. The subject property is located at 3323 Fairpoint Street. The site is within the community of Kinneloa Mesa in the Northeast Pasadena Zoned District of unincorporated County. The site is located in a very high fire hazard severity zone.
4. The project site is zoned R-1-20,000.
5. The subject property is a 21,700-square-foot, slightly sloping rectangular parcel. It is developed with a 6,190-square-foot existing adult residential facility, which includes offices, a classroom, an assembly room, and residence facilities, as well as patios, approximately 5,000 square feet of landscaping, and currently a 10-space parking lot.
6. The facility is accessed from Fairpoint Street to the south via a controlled-access metal gate. Fairpoint Street is a narrow street with no curbs or sidewalks. Evidence provided indicates that the street is 23 feet wide at its widest point and as narrow as 16 feet in some places due to guy wires or other obstructions. The block of Fairpoint on which the facility is located dead ends into private driveways with no turn-around or cul-de-sac type half-circle at its end. Fairpoint Street intersects with Sierra Madre Villa Avenue which is the only ingress and egress out of the community.
7. All surrounding properties are developed with single-family residences. Parking on the subject property is intended only for employees because the facility's rules prohibit visitors on weekdays and also prohibit residents from using automobiles during their stays. Street parking generally is allowed on Fairpoint Street and would be utilized by maintenance and delivery vehicles servicing the facility and by facility visitors on weekends.

8. Surrounding properties are zoned as follows:

North: R-1-20,000 (Single-Family Residence - 20,000 square feet minimum lot size);  
East: R-1-20,000;  
South: R-1-20,000, City of Pasadena residentially zoned parcels; and  
West: R-1-20,000.

9. The surrounding land uses consist of the following:

North: Single-family residences;  
East: Single-family residences;  
South: Single-family residences; and  
West: Single-family residences.

10. The County Department of Regional Planning ("Regional Planning") determined that a Negative Declaration is the appropriate environmental documentation for the proposed project under the California Environmental Quality Act ("CEQA") reporting requirements. The Initial Study concluded that the project design and/or standardized conditions will adequately mitigate any environmental impacts to a level of no significance. A draft version of the Initial Study was circulated to all stakeholder agencies for comments for a period of at least 30 days. Comments received by the County Departments of Public Works ("Public Works"), Public Health ("Public Health"), and Fire ("Fire Department") were incorporated into the final document.
11. The facility was established in 1996 as a sober living facility. A sober living facility is a private communal living arrangement of unrelated or related persons who are often recovering alcoholics or substance abusers living as a single housekeeping unit. As a matter of law, a sober living facility functions as an alternate family unit and is considered compatible with residential uses and therefore may be established in residential areas. A sober living facility does not offer on-site counseling or treatment services. If such services are provided, the facility no longer qualifies as a sober living facility and licensing by the State of California is required. Pursuant to section 22.08.010(A) of Title 22 of the Los Angeles County Code ("County Code"), such a state-licensed facility falls with the County Code's definition of an adult residential facility. Such facilities that house seven or more people are allowed in an R-1 zone only if the facility meets the burden of proof for, and obtains, a CUP.
12. Prior to 1999, the former operator constructed buildings on the site without the necessary building permits or other applicable County approvals. In or about 1999, after the applicant purchased the property, the applicant applied for retroactive building permits in an effort to legalize these unpermitted additions made to the subject property. At that time, the applicant represented to Public Works and Regional Planning that the facility operated only as a sober living facility with no on-site professional treatment. As a result, the facility was allowed

to continue in operation without obtaining a CUP and was issued a certificate of occupancy as a congregate living facility.

13. In 2003, without notifying Regional Planning, the applicant applied for, and was granted, a state license for the non-medical treatment of 12 adults for drug and alcohol rehabilitation and thereafter began to provide such services. This change brought the facility within the County Code's definition of an adult residential facility, which requires a CUP to operate within the R-1-20,000 zone, if the facility houses seven or more adults. State licensing meant the facility could no longer qualified as a sober living facility. At that time, however, the applicant did not seek or obtain the necessary permits and approvals from Regional Planning to operate in the R-1-20,000 zone as an adult residential facility. In 2007, again without seeking the necessary permits and approvals from Regional Planning, the applicant expanded the number of persons treated at the facility from 12 to 20 adults. The applicant obtained state licensing for this expansion, but did not obtain the required CUP.
14. In March 2008, after learning of the unauthorized operation of an adult residential facility, Regional Planning issued the applicant a notice of violation to bring the facility into compliance. Regional Planning directed the applicant to either cease the unpermitted operations or to seek the necessary approvals to continue its operation as an adult residential facility. As a result, the applicant applied for a CUP to legalize the continued operation of the facility as an adult residential facility providing drug and alcohol treatment for a maximum of 20 adults. Pursuant to section 22.04.110 of the County Code, the applicant sought and was granted a "Clean Hands Waiver" allowing the facility to continue operating pending the outcome of the CUP process.
15. The 6,190-square-foot adult residential facility includes a single two-story structure that contains seven bedrooms, eight bathrooms, four offices, a classroom, two multi-purpose rooms, a kitchen, a pantry, a dining room, and a laundry room on the 21,700-square-foot (0.5-acre) lot. There are also two patios, an outdoor exercise area on the property's western edge, an 83-square-foot storage shed on the property's northwest corner, and approximately 5,000 square feet of landscaping dispersed throughout the project site. The maximum height of the structure is 26 feet, which complies with the County Code.
16. The main structure is set back 37 feet from the front (south) property line and has minimum side yard setbacks of six feet and seven inches to the west and 20 feet to the east. As such, the main structure complies with setback requirements for front yards (20 feet) and side yards (five feet). Required County rear yard setbacks are 15 feet and the main structure's rear yard setback is only 13 feet, 9 inches. The smaller setback was approved by Public Works' Building and Safety Division in 1999 through a retroactive building permit process, but no yard modification was approved by Regional Planning. In addition, an 83-square-foot storage shed on the property's northwest corner has setbacks close to zero, thus

failing to comply with side and rear yard setback minimums. The inadequate setbacks were not approved by the County.

17. A 10-space parking lot and trash enclosure currently exist on the northeastern portion of the property, accessed by a driveway from the south. As part of the project, the applicant proposed reconfiguring the parking spaces to meet County development standards, decreasing the total number to eight spaces, one of which would be reserved for the handicapped. The facility is accessed from Fairpoint Street to the south via a controlled-access metal gate, 24-hour surveillance, and on-site security is also provided.
18. A metal fence near the south (front) edge of the property has a height of four feet, which exceeds by six inches the allowable height as set forth in section 22.48.160 of the County Code. The maximum allowable height of side and rear yard fences is six feet. The perimeter fence to the north in the rear yard has a uniform height of eight feet, and thus is not in compliance with the County Code. The eastern perimeter fence in the side yard varies in height from six feet to eight feet, and thus is also in violation of the County Code in some locations. A block wall fence along the western side yard of the property also varies in height from five feet to seven feet, but a 57-foot long wooden fence has been added to the top of this structure extending this portion's total height to approximately 10 feet, again exceeding the allowable height.
19. On May 18, 2010, a duly-noticed public hearing was held before a Hearing Officer regarding the project proposal. Prior to the hearing, the applicant was informed of Regional Planning's recommendation that the matter be referred to the Commission. The applicant opted not to testify at the Hearing Officer's hearing. Six area residents attended the Hearing Officer's hearing and testified in opposition to the project. These residents raised several concerns about the proposed facility, which are described in more detail below. The Hearing Officer subsequently closed the public hearing and stated that, in his opinion, the case involved a major planning issue appropriate for consideration by the Commission. Therefore, the Hearing Officer referred the matter to the Commission.
20. In accordance with standard County Code requirements, on May 24, 2010, 176 public hearing notices regarding the scheduled July 7, 2010 Commission hearing were mailed to property owners located within the 1,000-foot radius of the subject property and other interested parties regarding the project proposal. The notice was published in the *Pasadena Star-News* and in *La Opinion* on May 28, 2010. Case-related materials were sent to the Hastings Branch Library in the City of Pasadena and posted on the Regional Planning website. On June 4, 2010, the public hearing notice was posted at the project site.

21. Ninety-five letters were received in opposition to the project proposal. The concerns that were raised at the May 18, 2010 Hearing Officer public hearing were restated and additional objections were raised. Concerns and objections to the project which were raised throughout the process included the following:
- a. The proposed facility is not appropriate for the existing residentially-zoned neighborhood and is not consistent with the County's General Plan;
  - b. Such a use would not be permitted in the City of Pasadena, which is across the street from the subject property;
  - c. Too many residents (20) would be living on a single property in a residential zone, which would create additional traffic on a narrow street, and potentially overwhelm the existing septic system;
  - d. The facility would change the character of the neighborhood, negatively influencing property values in the area;
  - e. Because the facility has been operating for seven years without County permits, allowing it to continue would reward bad behavior;
  - f. There are no known examples of this type of use in a similar residential area within the County and allowing the facility would set an undesirable precedent;
  - g. Incidents of petty crime, such as vandalism and theft of mail, have increased dramatically on Fairpoint Street since the facility has been in operation;
  - h. Residents of the facility have been seen repeatedly in front of the building or walking along Fairpoint Street in violation of the facility's stated policy of allowing exit through arranged transportation only;
  - i. Arguments by the applicant in favor of the project do not adequately address the burden of proof. Specifically, studies cited by the applicant as purportedly showing that such facilities do not impact property values relate only to small group homes;
  - j. A realtor asserted that the need to disclose the existence of an alcohol and drug treatment facility in the neighborhood would negatively impact property values. Others provided information that sales of homes in the neighborhood were not completed after the buyers learned of the facility, and that others had moved from the neighborhood due to the facility;
  - k. Surveys of residential alcohol and drug treatment facilities located in the Pasadena area show that the facility is unnecessary because there are many other such facilities in the Pasadena area with excess capacity for

residents that would accommodate more than the 20 residents that would be served by the proposed facility;

- l. Such facilities are allowed by right in commercial zones so it is not necessary for the County to allow them in residential areas;
  - m. The applicant has acted in bad faith with respect to area residents, often harassing, intimidating, or threatening them for making complaints or using deceptive practices in order to gain "support" statements from adjacent residents;
  - n. Nearby residents, including some on Fairpoint Street, indicated that traffic increased significantly since the facility began operating;
  - o. Residents on Fairpoint Street indicated that access to their homes located beyond the facility had been temporarily blocked by delivery vehicles parked on the street in front of the facility;
  - p. On weekends, Fairpoint Street and Sierra Madre Villa Avenue are often crowded with visitors' vehicles raising traffic safety concerns;
  - q. Traffic safety concerns relating both to pedestrian safety, particularly in light of the absence of sidewalks, as well as vehicular safety;
  - r. The neighborhood is a very high fire hazard severity zone, thus additional traffic and parking of vehicles on the very narrow Fairpoint Street creates hazardous conditions as would the need to evacuate 20 residents and 7 to 8 employees in the event of a fire in the area;
  - s. Noise emanating from the facility is problematic. One immediate neighbor indicated that her husband had often left their home due to the noise; and
  - t. Up to 28 people at the facility (20 residents plus up to eight staff members) is not compatible with the single-family residences in the area.
22. At the Commission's July 7, 2010 hearing, one person testified in favor of the project and three testified in opposition. The applicant's representative requested that the hearing be continued to allow the applicant to obtain new representation because his attorney and expeditor had recently ended their involvement with the project. Opponents asked that the request for a continuation be denied because they believed it was a stalling tactic on the part of the applicant. After discussion, the Commission continued the public hearing to July 21, 2010.
23. At the July 21, 2010 continued Commission hearing, seven people testified in support of the project and five testified in opposition. The applicant's representative presented to the Commission the merits of the project and also indicated a possibility of reducing the request from 20 residents to 14. When questioned, however, the applicant's representative stated that they were not

changing their application to request only a 14-person facility. Supporters testified that the facility was well run and would provide a valuable service to the community. Opponents testified that a facility of this type would not be appropriate for a single-family neighborhood because the street where the facility is located is narrow and street parking is difficult. After discussion and close of the public hearing, the Commission voted 3-0 to deny the CUP application. The Commission found, among other things, that the facility was out of character for the neighborhood, creating a burden on the neighborhood, and that there was insufficient parking and traffic issues. As a result, the Commission concluded that the applicant would not meet the burden of proof for a CUP. The applicant appealed the Commission's denial of the CUP to the Board.

24. The Board held its duly-noticed public hearing on January 25, 2011. At the Board's hearing, Regional Planning staff made a presentation, which included, among other information, the site and project history, and outlined the Commission's reasons for denial. The applicant's attorney presented the project and project supporters and opponents testified, both groups agreeing to limit the number of speakers. In addition to the applicant, seven people testified in favor of the project and three in opposition. Scores of letters were received throughout the CUP review process, the majority of which opposed the project as discussed above.
25. The Fire Department was consulted in July 2009 regarding the project proposal and the Initial Study. The Fire Department initially responded in August 2009, providing minimal comments on the Initial Study. However, on June 23, 2010, Regional Planning staff received additional comments from the Fire Department indicating that the project, as proposed, does not meet applicable Fire requirements.
26. Public Works was consulted regarding the project in July 2009. Public Works responded with minimal comments on the Initial Study. After a period of 60 days, Regional Planning assumed that Public Works had no comments regarding the project proposal. In 1999 and 2000, Public Works, Building and Safety Division, gave retroactive building permits to all on-site structures, with the exception of a storage shed.
27. Public Health, Environmental Hygiene Division, was consulted regarding the on-site septic system. Public Health originally placed a hold on the project, requiring the applicant to either connect to the City of Pasadena sewer system or submit a plan for construction of an adequate septic system. It was determined by the City of Pasadena that connection to the sewer system was not possible. Public Health later determined that the project could be considered at a public hearing after giving "conceptual" approval for the design of a new septic system.
28. The Altadena Station of the County Sheriff's Department ("Sheriff") was consulted in April 2010 regarding the project proposal and the relative crime rate of the vicinity over the last seven years. This inquiry was made due to the



complaints of several nearby residents about the increase of crime in the area since the opening of the facility. The Sheriff responded that, from 2005 to 2010, there were nine calls for service from the facility, four of which were accidental activation of the burglar alarm. The Sheriff stated that such a number of calls did not represent a particularly high volume at that address, although the Sheriff did not take a position for or against the project proposal. Calls for service from the facility do not necessarily reflect overall crime in the neighborhood.

29. The City of Pasadena Police Department was also consulted regarding the project proposal. The department provided a letter stating that the property fell outside of its jurisdiction.
30. The City of Pasadena Planning and Development Department was consulted as well because its jurisdiction begins immediately across Fairpoint Street from the subject property. That department opposes the project for the following stated reasons:
  - a. The facility would generate an inordinate amount of vehicle traffic and on-street parking for a single-family residential neighborhood;
  - b. The septic system is inadequate for a 20-bed facility, plus staff and visitors (and the minimum requirements for a potential sewer connection cannot be met);
  - c. There is inadequate fire access to the back of the residential structure; and
  - d. A facility of this size is inappropriate for a single-family neighborhood.
31. The subject property is located within the "1" (Low-Density Residential) classification of the County General Plan Land Use Plan. This designation allows for primarily residential uses with a density range of one to six dwelling units per acre. Certain other non-residential uses are also allowed, such as public facilities and institutional uses, subject to discretionary review. The project site is approximately one-half acre and is currently developed with one single-family dwelling unit (an approximately two unit per acre density). It is therefore consistent with the General Plan designation allowing for one to six dwelling units per acre.
32. The General Plan includes policies to preserve good residential areas and protect them from intrusion of incompatible uses and to emphasize the preservation, conservation, and maintenance of stable residential areas. In addition, among the goals of the Safety Element of the General Plan is the reduction of threats to public safety and protect property from wild land and urban fire hazards. One policy developed to meet that goal is to maintain and strengthen review of projects.

33. Credible information was presented by area residents that a facility employing seven to eight people and housing 20 individuals that not only includes the usual amenities of a single-family home such as bedrooms, bathrooms, and a kitchen, but also offices, a classroom, and multi-purpose rooms is incompatible with typical single-family residences in the area.
34. Area residents also pointed out that parking problems in conjunction with the narrowness of the street, among other things, would have a negative impact on safety in this very high fire hazard severity zone.
35. In light of these credible fire hazard concerns and the incompatibility of the facility with the neighborhood, the Board finds that the project is not consistent with the General Plan policies and goal set forth in Finding No. 32 above.
36. While an adult residential facility is allowed within the R-1-20,000 zone upon issuance of a conditional use permit, the proposed project would adversely impact the surrounding community and is inconsistent with the character of the surrounding neighborhood. The area is designated and zoned for low-density residential development. As such, a facility serving 20 residents, with the associated employees, visitors, and other services necessary to operate such a facility is out of character with similarly situated residential properties and creates a burden on the surrounding neighborhood. The types, timing, and nature of traffic trips to the facility in order to provide services for 20 adults as proposed is sufficiently different from that associated with other low-density residential development to make it incompatible. The operation of the facility with the proposed number of residents would be materially detrimental to the use and enjoyment of other property in the surrounding vicinity.
37. More than 90 letters outlining and explaining concerns and objections were submitted to the County, many of which relate to specific incidents that have occurred in association with the facility. These incidents include, but are not limited to, noise, increased traffic causing safety problems and atypical delays, patients allowed to leave the facility grounds contrary to the facility's rules, hostility and/or intimidation from the applicant when approached about such issues, vandalism, and mail theft. Although the applicant disputes the assertions that such incidents have occurred, the information submitted provides evidence of the impact on the community and supports a conclusion that operation of the facility at this location with the number of residents proposed has caused problems in the neighborhood. Thus, allowing the facility to continue to operate at its current capacity would negatively affect the comfort and welfare of area residents.
38. Regional Planning also questioned whether on-site parking facilities are adequate for the proposed use, because the eight parking spaces on the property would accommodate a maximum of seven employees at any given time, which may be less than the "seven to eight" employees stated as the largest shift in the project application. Based on the efforts of the applicant to restrict street

parking in the neighborhood, it appears that the facility is providing insufficient parking to meet the operational needs of the facility. In addition, nearby residents reported congested parking on Fairpoint Street, particularly on weekends, when visitors are allowed.

39. The facility is not necessary in order for persons with drug or alcohol disabilities to enjoy a dwelling in light of, among other things, the ready availability and capacity of other adult residential facilities in the area. In addition, the Board finds that it is not reasonable for the County to abandon its CUP burden of proof to accommodate this incompatible facility.

**BASED ON THE FOREGOING, THE BOARD OF SUPERVISORS CONCLUDES:**

1. The proposed use is not consistent with the adopted General Plan for the area;
2. The requested use at the proposed location is likely to adversely affect the health, peace, comfort, or welfare of persons residing and working in the surrounding areas and be materially detrimental to the use, enjoyment, or valuation of property or other persons located in the vicinity;
3. The proposed site is not adequately served by highways or streets of sufficient width improved as necessary to carry the kind and quantity of traffic such use would generate; and
4. The information submitted by the applicant and presented at the public hearing does not substantiate the required findings for a conditional use permit as set forth in section 22.56.090, Title 22, of the County Code.

**THEREFORE, THE BOARD OF SUPERVISORS:**

Denies Project No. R2008-01555-(5), consisting of Conditional Use Permit No. 2008-00131-(5).